

TERMS AND CONDITIONS

1. CORRECTIONS AND CLARIFICATIONS

The Mississippi Department of Public Safety reserves the right to request clarifications or corrections to proposals. Any proposal received which does not follow the instructions to proposers, meet the minimum vendor qualifications or comply with other proposal requirements of this RFP, including clarification or correction requests, may be considered to be “non-responsive” and may be rejected.

2. WITHDRAWAL OR AMENDMENT OF A PROPOSAL

A proposer may withdraw a proposal by submitting a written request for its withdrawal to the Mississippi Department of Public Safety signed by the proposer and mailed to the above contact. The Mississippi Department of Public Safety shall not accept any amendments, revisions or alterations to proposals after the due date unless formally requested by the Mississippi Department of Public Safety.

3. COST OF PROPOSAL

All costs incurred by the proposer in preparing and delivering their proposal, making on-site presentations (if deemed necessary) and any subsequent time and travel to meet with the Mississippi Department of Public Safety regarding the proposal shall be borne by the proposer.

4. MISSISSIPPI PUBLIC RECORDS ACT/CONFIDENTIALITY OF PROPOSALS

Any proposal, including accompanying attachments, will be available for review by State of Mississippi personnel, the Mississippi Department of Public Safety, members and staff of the Legislature and oversight boards and the Mississippi Department of Public Safety’s consultants. The proposal is further subject to the “Mississippi Public Records Act of 1983”, as amended, codified as Section 25-6-1 et seq., Mississippi Code Annotated and exceptions found in Sections 25-61-9 and 79-23-1. The Mississippi Department of Public Safety understands that you may consider some of the information required to be provided in the proposal to be proprietary. The Mississippi Department of Public Safety requests that each page of the proposal that you consider confidential be on a different color paper than non-confidential pages and be marked in the upper right hand corner with the word “CONFIDENTIAL”. The State statute referenced above provides that you can request that prior to the release of any information under a public records request you will be notified by the Mississippi Department of Public Safety of the request for the information and given sufficient time to seek protection from the appropriate court. If you do not obtain protection from the appropriate court, all information supplied whether marked confidential or not, may be released. The Mississippi Department of Public Safety will accept no additional restrictions on the release of information contained in your proposal.

5. AVAILABILITY OF FUNDS

It is expressly understood and agreed that the obligation of the Mississippi Department of Public Safety to proceed under this agreement is conditioned upon the

appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the agreement are, at anytime, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the Mississippi Department of Public Safety, the Mississippi Department of Public Safety shall have the right upon ten (10) days written notice to the contractor to terminate this agreement without damage, penalty, cost or expenses to the Mississippi Department of Safety of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

6. **STOP WORK ORDER**

(1) **Order to Stop Work:** The procurement officer, may, by written order to the offeror at any time, and without notice to any surety, require the offeror to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding 90 days after the order is delivered to the offeror, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, the offeror shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the procurement officer shall either:

(a) cancel the stop work order; or,

(b) terminate the work covered by such order as provided in the Termination for Default Clause or the Termination for Convenience Clause of this contract.

(2) **Cancellation or Expiration of the Order:** If a stop work order issued under this clause is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the offeror shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or offeror price, or both, and the contract shall be modified in writing accordingly, if:

(a) the stop work order results in an increase in the time required for, or in the offeror's properly allocable to, the performance of any part of this contract; and

(b) Contractor asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage; provided that, if the Procurement Officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this contract.

(3) **Termination of Stopped Work:** If a stop work order is not cancelled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.

(4) **Adjustment of Price:** Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment clause of this contract.

7. **PROCUREMENT REGULATIONS**

The contract shall be governed by the applicable provisions of the Mississippi Personal Service Contract Review Board Regulations, a copy of which is available at 210 East Capitol, Suite 800, Jackson, MS 39201 for inspection, or downloadable at <http://www.mspb.ms.gov>.

8. **E-VERIFICATION**

If applicable, Contractor represents and warrants that it shall ensure its compliance with the Mississippi Employment Protection Act of 2008, and shall register and participate in the status verification system for all newly hired employees. Mississippi Code Annotated §§ 71-11-1 *et seq.* The term “employee” as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, “status verification system” means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance. Upon request of the State and after approval of the Social Security Administration or Department of Homeland Security when required, Contractor agrees to provide a copy of each such verification. Contractor further represents and warrants that any person assigned to perform services hereafter meets the employment eligibility requirements of all immigration laws. The breach of this agreement may subject Contractor to the following:

1. termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years with notice of such cancellation/termination being made public;

2. the loss of any license, permit, certification or other document granted to Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year; or,

3. both-in the event of such termination/cancellation, Contractor would also be liable for any additional costs incurred by the State due to Contract cancellation or loss of license or permit to do business in the State.

9. **APPLICABLE LAW**

The contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of laws provisions, and any litigation with respect thereto shall be brought in the courts of the state. The

contractor shall comply with applicable federal and state local laws and regulations.

10. **COMPLIANCE WITH LAWS**

The Contractor understands that the Mississippi Department of Public Safety is an equal opportunity employer and therefore maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age national origin, physical handicap, disability or any other consideration made unlawful by federal, state or local laws. All such discrimination is unlawful and the Contractor agrees during the term of the agreement that the Contractor will strictly adhere to this policy in its employment practices and provision of services. The Contractor shall comply with, and all activities under this agreement shall be subject to, all federal, state and local laws and regulations, as now existing and as may be amended or modified.

11. **REPRESENTATION REGARDING GRATUITIES**

The bidder, proposer or contractor represents that it has not violated, is not violating and promises that it will not violate the prohibition against gratuities set forth in Section 7-204 (Gratuities) of the Mississippi Personal Service Contract Procurement Regulations, as applicable.

12. **REPRESENTATION REGARDING CONTINGENT FEES**

The offeror/contractor represents that it has not retained a person to solicit or secure a State contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in the offeror's bid/RFP or proposal.

13. **TRANSPARENCY**

This contract, including any accompanying exhibits, attachments, and appendices, is subject to the "Mississippi Public Records Act of 1983," and its exceptions. See Miss. Code Ann. §§ 25-61-1 *et seq.*, and Miss. Code Ann. § 79-23-1. In addition, this contract is subject to the provisions of the Mississippi Accountability and Transparency Act of 2008. Miss. Code Ann. §§ 27-104-151 *et seq.* Unless exempted from disclosure due to a court-issued protective order, a copy of this executed contract is required to be posted to the Department of Finance and Administration's independent agency contract website for public access at <http://www.transparency.mississippi.gov>. Information identified by Contractor as trade secrets, or other proprietary information, including confidential vendor information, or any other information which is required confidential by state or federal law or outside the applicable freedom of information statutes, will be redacted.

14. **TRADE SECRETS, COMMERCIAL AND FINANCIAL INFORMATION**

It is expressly understood that Mississippi law requires that the provisions of this Contract which contain the commodities purchased or the personal or professional Services provided, the price to be paid, and the term of the contract shall not be deemed to be a trade secret or confidential commercial or financial information and shall be available for examination, copying, or reproduction.

15. **PAYMODE**

Payments by state agencies using the State's accounting system shall be made and remittance information provided electronically as directed by the State. These

payments shall be deposited into the bank account of Contractor's choice. The State may, at its sole discretion, require Contractor to electronically submit invoices and supporting documentation at any time during the term of this agreement. Contractor understands and agrees that the State is exempt from the payment of taxes. All payments shall be in United States currency.

16. **ACKNOWLEDGEMENT OF AMENDMENTS**

Bidders shall acknowledge receipt of any amendment to the solicitation by signing and returning the amendment with the bid/RFP, by identifying the amendment number and date in the space provided for this purpose on the bid/RFP form or by letter. The acknowledgment must be received by the Mississippi Department of Public Safety by the time and at the place specified for receipt of bid/RFPs

17. **RIGHT TO CONSIDER HISTORICAL INFORMATION**

The Mississippi Department of Public Safety reserves the right to consider historical information, whether gained from the proposer's proposal, question and answer conferences or any other source.

18. **RIGHT TO REJECT AND/OR REBID**

The Mississippi Department of Public Safety specifically reserves the right to reject any or all proposals received in response to this RFP or to reissue an RFP for the services requested.

19. **CERTIFICATION OF INDEPENDENT PRICE DETERMINATION**

The bidder certifies that all prices submitted in response to the solicitation have been arrived at independently and without, for purpose of restricting competition, any consultation, communication or agreement with any other bidder or competitor relating to those prices, the intention to submit a bid, or the methods or factors used to calculate the prices bid.

20. **RIGHT OF NEGOTIATION**

The Mississippi Department of Public Safety reserves the right to further clarify and/or negotiate with the "proposer evaluated best" following completion of the evaluation of proposals but prior to contract execution, if deemed necessary by the Mississippi Department of Public Safety. The Mississippi Department of Public Safety also reserves the right to move to the next best proposer if negotiations do not lead to a final contract with the best proposer.

21. **ACCESS TO RECORDS/CONFIDENTIALITY**

The Broker recognizes that during the course of this RFP process, it may have access to certain confidential and proprietary information pertaining to the business of the Mississippi Department of Public Safety and its employees. By submission of a proposal, the proposer agrees that all medical, financial and personal information reviewed and collected in connection with this RFP process, regarding individual employees shall be held in strict confidence and shall not be released, disclosed or published by the Broker without the written consent of the Mississippi Department of Public Safety, or as required by law. Except as may otherwise be required by law, the Broker may not release any information or reports relative to the Mississippi Department of Public Safety, without a prior written authorization by the Mississippi Department of Public Safety. The Broker agrees that it will not, at any time, directly or indirectly disclose such confidential

or proprietary information to any other person or organization for any purpose except as may be required by law or as reasonable related to the services being provided by the Broker pursuant to this RFP, without the express, written approval of the Mississippi Department of Public Safety.

22. **MARKET CONTACT/BLOCK**

This RFP is NOT an authorization for brokers/agents to contact any insurance markets on behalf of the Mississippi Department of Public Safety. Accordingly, NO agent, broker or other firm is authorized to block any insurance market for any current or proposed insurance coverage for the Mississippi Department of Public Safety.

23. **E-PAYMENT**

Offeror agrees to accept all payments in United States currency via the State of Mississippi's electronic payment and remittance vehicle. The agency agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies," Mississippi Code Annotated §31-7-301, which generally provides for payment of undisputed amounts by the agency within forty-five (45) days of receipt of invoice.

24. **DEBRIEFING REQUEST**

A bidder, successful or unsuccessful, may request a post-award debriefing, in writing, by U.S. mail or electronic submission. The written request must be received by the Commissioner of Public Safety and a copy submitted to the Procurement Division of the MS Department of Public Safety within three business days of notification of the contract award. A post-award debriefing is a meeting and not a hearing; therefore, legal representation is not required. A debriefing typically occurs within five business days of receipt of the request. If a bidder prefers to have legal representation present, the bidder must notify the Commissioner of Public Safety in writing and identify its attorney by name, address, and telephone number. The MS Department of Public Safety will schedule and/or suspend and reschedule the meeting at a time when a Representative of the Office of the Mississippi Attorney General or a Representative of the MS Department of Public Safety's Legal Division can be present.

Unless good cause exists for delay, the debriefing should occur within five (5) business days after receipt of the vendor request and may be conducted during a face-to-face meeting, by telephonic or video conference, or by any other method acceptable to MS Department of Public Safety.

For additional information regarding Post-Award Debriefing, as well as the information that may be provided and excluded, please see Section 7-114 through 7-114.07, Post-Award Vendor Debriefing, of the Mississippi Personal Service Contract Review Board's Rules and Regulations.